

**NOTICE OF PILOT PROGRAM TO PERMIT PRE-FIRST OFFICE ACTION
INTERVIEW FOR APPLICATIONS ASSIGNED TO ART UNITS 3624 AND 3628
AND REQUEST FOR COMMENTS ON PILOT PROGRAM**

Effective May 3, 2004, a pilot program to provide for an optional pre-first Office action interview for applications assigned to Art Units 3624 and 3628 (Class 705/ Subclasses 35-45-the finance and banking art) will be initiated. The pre-first Office action interview will be granted if a request is filed with (1) a grantable petition to make special filed under MPEP § 708.02, and (2) unless already included in the petition to make special, a general statement of the state of the art and an identification of no more than 3 references believed to be the “closest” prior art along with an explanation of how the broadest claim distinguishes over the prior art. This pilot program will permit the interaction between the applicant and the examiner prior to the first Office action which should assist the examiner in developing a better understanding of the nature of the invention, allow for a more focused search, and potentially reduce the number of non-final Office actions. If the petition to make special is not granted, the request for an interview prior to the first Office action will not be granted. The prohibition to discuss the patentability of a pending application during an interview prior to the first Office action, unless the application is a continuation or substitute is hereby waived for this pilot program.

The pilot program will last six months, after which an evaluation of the pilot will be conducted. A notice will be published in the *Official Gazette* and will be posted on the USPTO website after the evaluation to indicate whether the Office will make the pilot program permanent.

PROCEDURES:

(1) To be eligible for a pre-first Office action interview, applicant must have filed a grantable Petition to Make Special under MPEP § 708.02 together with a letter requesting a pre-first Office action interview in an application classified in Class 705/Subclass 35-45 and assigned to Art Unit 3624 or 3628.

(2) If a letter requesting a pre-first Office action interview is filed in an application that is not assigned to Art Unit 3624 or 3628, applicant will be notified that the application is not eligible for participation in the pilot program.

(3) If the petition to make special is not granted, the letter requesting a pre-first Office action interview will not be granted and applicant will be notified accordingly.

(4) To the extent that the petition to make special does not require such information, the letter requesting the interview must include:

(a) a general statement by applicant of no more than 200 words of the state of the art at the time of the invention; and

(b) an identification of no more than three (3) references believed to be the “closest” prior art and an explanation as to how the broadest claim (identify by claim number) distinguishes over the submitted prior art.

(5) If the request for a pre-first Office action interview is granted and resources permitting, the examiner, after a preliminary review of the application, will call the applicant no later than 60 days following the grant of the request but before a first Office action is written and mailed, to set up the pre-first Office action interview

(a) the attorney may request either a telephonic or personnel interview, and

(b) the scope of the interview will include:

(i) a discussion of the features of the claimed subject matter that make the invention patentable;

(ii) a discussion to assist the examiner in developing a better understanding of the invention; and

(iii) a discussion to establish the state of the art at the time of the invention.

(6) Resources permitting, an Office action will be provided no later than 30 days following the interview.

The examiner will make an independent search of the prior art in the examination of the application.

The petition to make special and the letter requesting a pre-first Office action interview should be filed in the Office using the “Express Mail” procedures set forth in 37 CFR 1.10 (see MPEP § 513) or by facsimile transmission to the Office’s central facsimile number, (703) 872-9306. It is suggested that a courtesy copy of the petition to make special along with the letter requesting the pre-first Office action interview be either directly faxed to John J. Love, Technology Center (TC) Director 3600 at 703-306-4597 or hand delivered to the Office of John J. Love located at 2451 Crystal Drive, Crystal Park 5 - Room 7A03, Arlington, VA 22202. It is also suggested that if the applicant has not received a decision on the petition to make special within 30 days after receipt in the TC Director John J. Love’s Office, applicant should make inquiries to the TC Director’s Office at 703-308-1020.

REQUEST FOR COMMENTS:

Concurrently to run with this pilot, the Office requests comments from the public on the granting of pre-first Office action interviews under the conditions of (a) filing a petition to make special under MPEP § 708.02; (b) a letter requesting an interview; and (c) a discussion of the state of the art and an identification of no more than three (3) references believed to be the “closest” prior art along with an explanation as to how the broadest claim distinguishes over the submitted prior art.

The time period for comments will end concurrently with the end of the pilot.

Comments should be mailed to the Office of the Director of Technology Center 3600,
Attention: John Love, 2451 Crystal Drive, Crystal Park 5 - Room 7A03, Arlington, VA
22202 or faxed to John J. Love, Director of Technology Center 3600 at 703-306-4597.

Date: 3/30/04

Signed: /s/
Nicholas P. Godici
Commissioner for Patents